

### **REMARKS**

Claims 106-114, 116-124, 126-133, and 135-139 are pending in this application.

Claims 106, 118, 137, and 138 have been amended herewith. Support for the amendments can be found throughout the application as filed, for example at page 8, lines 20-35, and page 15, lines 4-32. No new matter has been added by way of the instant claim amendments.

Claims 52-75, 105, 116-117, 126-127, 129-133, 135-136, and 139 have been cancelled without prejudice. Applicant reserves the right to pursue the subject matter of these claims in a future related application.

Upon entry of the above-described amendments, claims 106-114, 118-124, and 137-138 will be pending and under examination in this application.

The outstanding rejections are addressed separately below.

#### **I. New Matter:**

Claims 106-114, 116-124, 126-133, and 135-139 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. (*see*, Office Action, page 3). Claims 116, 117, 126-127, 129-133, 136, and 139 have been cancelled, and thus their rejection has been rendered moot. Without acquiescing to the rejection and solely in order to facilitate expedited prosecution of this case, Applicant has amended claims 106, 118, 137, and 138, to removed the alleged new subject matter.

Accordingly, it is respectfully requested that the § 112, first paragraph, rejection of these claims as amended be reconsidered and withdrawn.

#### **II. Rejections Under 35 U.S.C. § 112, First Paragraph, Enablement**

Claims 137-139 stand rejected under 35 U.S.C. § 112, first paragraph, “because the specification, while being enabling for pharmaceutical compositions comprising neuronal cells, does not reasonably provided enablement for pharmaceutical compositions comprising glial cells.” (*see*, Office Action, page 5).

Without acquiescing to this rejection, and solely to facilitate expedited prosecution, Applicant has amended claims 137 and 138 to be limited to neural cells. Claim 139 has been canceled, and so its rejection has been rendered moot.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of this § 112, first paragraph, rejection.

**III. Rejections Under 35 U.S.C. § 112, Second Paragraph:**

Claims 106-114, 116-124, 126-133, and 135-139 stand rejected under 35 U.S.C. § 112, second paragraph, as purportedly being indefinite in their recitation of the terms: “regional-identity unrestricted” and “pluripotent,” because the specification allegedly does not define these terms (*see*, Office Action, page 7).

Without acquiescing to this rejection, and solely to facilitate expedited prosecution, Applicant has amended claims 107, 118, 137, and 138 to remove the terms “regional-identity unrestricted,” and “pluripotent.” Claims 116, 117, 126-133, and 139 have been canceled, and thus their rejection has now been rendered moot.

In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of this § 112, second paragraph, rejection.

**IV. Previously Submitted Information Disclosure Statement:**

Applicant notes that a copy of Form 1449 dated *August 22, 2003*, has not been initialed and returned with any of the Office Actions that have issued in this application. Accordingly, Applicant respectfully requests that the Examiner review the art cited therein and return an initialed copy of the Form 1449 dated August 22, 2003, with the next Action. For the Examiner’s convenience, Applicant has attached as **Appendix A**, a copy of the previously submitted IDS and a copy of the references cited therein.

### **CONCLUSIONS**


In view of the foregoing claim amendments and arguments presented, Applicant respectfully avers that the claims are in good condition for allowance and notification of such allowance is hereby respectfully requested.

No fees are believed to be due at this time; however, if any fees are due, please charge such fees due, or credit any overpayments, to Deposit Account No. 08-0219.

If the Examiner believes that a telephone conference would expedite this matter, the Examiner is respectfully requested to telephone the Applicant's undersigned attorney at the number indicated below.

Respectfully submitted,

Date: August 20, 2007



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**APPENDIX A**

Attached is a copy the IDS submitted August 22, 2003, and the references cited therein.



PATENTS  
Atty. Docket No. VOS-012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Oliver Bruestle

Serial No.: 09/581,890

Filing Date: August 28, 2000

Title: **Neural Precursor Cells, Method for the  
Production and Use Thereof in Neural  
Defect Therapy**

Art Unit: 1632

Examiner: Falk, Anne Marie

**COPY**

**CERTIFICATION UNDER 37 CFR § 1.8(a)**

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail with sufficient postage in an envelope addressed to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

8/22/03

Date of Signature and  
of Mail Deposit

Rochelle Capobianco  
Rochelle Capobianco

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**SECOND SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

Sir:

Pursuant to 37 C.F.R. §§ 1.56 and 1.97-98, Applicant hereby makes of record the documents listed on the attached Form PTO-1449, and encloses copies herewith.

It is respectfully requested that the information above be expressly considered during the prosecution of this application and that the publications be made of record therein and appear among the "References Cited" on any patent to issue therefrom.

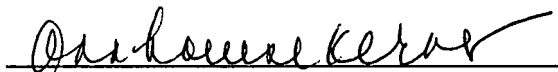
This submission does not constitute a representation by Applicant that a search has been made or that no better art exists and does not constitute an admission that any of the listed documents is material or constitutes "prior art." Applicant reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

This Second Supplemental Information Disclosure Statement is being filed after the mailing date of a first Office Action on the merits, therefore, the Commissioner is hereby authorized to charge the required fee of \$180.00 to Deposit Account No. 08-0219.

If the above amount is incorrect, the Commissioner is authorized to charge any fee deficiency or credit any overpayment to Deposit Account No. 08-0219.

Respectfully submitted,

Dated: August 22, 2003



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